

**DECISION**



*J. C. L.*  
*Proc 1*  
**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548  
*7556*

FILE: B-190793

DATE: September 6, 1978

MATTER OF: Magnasync/Moviola Corporation - Request  
for Reconsideration

**DIGEST:**

Where request for reconsideration of decision denying bid protest only restates arguments fully considered in such decision, decision is affirmed. 4 C.F.R. § 20.9 (1977).

Magnasync/Moviola Corporation (Magnasync) requests reconsideration of our decision in Magnasync/Moviola Corporation, B-190793, July 12, 1978, 78-2 CPD 31, in which we denied the firm's protest against certain actions by the Department of the Air Force which allegedly prevented Magnasync from submitting an offer under Air Force request for proposals (RFP) No. FO4606-77-R-0999.

The RFP was issued on September 26, 1977, as a 100-percent small business set-aside. Proposals were due by November 9. On September 26, the Los Angeles District Office of the Small Business Administration (SBA) advised the contracting officer that it had determined Magnasync to be other than a small business. The contracting officer, therefore, removed Magnasync from the source list for the procurement and advised the firm that in view of the SBA determination, the Air Force could not consider an offer from Magnasync. On November 4, and while its appeal to the SBA Size Appeals Board was pending, Magnasync submitted a partial proposal under the RFP. The proposal did not include prices for the items offered.

Shortly after the closing date for receipt of proposals, the contracting officer and Magnasync were notified by the SBA Size Appeals Board that since the initial determination of the firm's size status had not been made in connection with a particular set-aside procurement, but was furnished at

the request of another procuring activity for reporting purposes, the determination was merely advisory and did not preclude Magnasync from self-certifying itself as a small business.

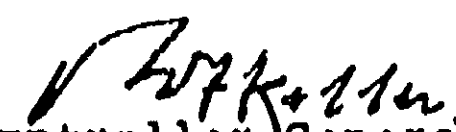
The only issue for consideration on the merits in Magnasync's protest to our Office against the contracting officer's actions was whether such actions improperly denied Magnasync an opportunity to compete in the procurement.

We denied the protest on that issue, stating as follows:

"It appears a potential competitor raised a question regarding Magnasync's size status with the contracting officer, who then contacted the Los Angeles SBA office and was advised of the outstanding determination. We find nothing improper or contrary to the procurement regulations in the contracting officer's advising Magnasync of this information. Whether Magnasync chose to expend the resources and time to submit a complete proposal was, we believe, a business judgment on its part and the record does not support Magnasync's allegation that the contracting officer prevented the submission of a proposal. Accordingly, while the timing of events here was unfortunate, we find no reason to require the cancellation of the instant RFP. Further, while Magnasync has raised the question of the authority of the contracting officer to remove Magnasync from the source list to receive a copy of the RFP, as Magnasync was furnished a copy and did submit a proposal, albeit incomplete, we find this question to be academic."

In its request for reconsideration, Magnasync essentially argues that the contracting officer erroneously considered the SBA Los Angeles Office advice as a formal determination regarding Magnasync's size status, and on that basis improperly discouraged the firm from submitting an offer. In addition, Magnasync contends that it was in fact prejudiced by its removal from the source list.

The matters raised in Magnasync's request for reconsideration are basically restatements of the arguments raised in its bid protest. They were fully considered by our Office in our review of the record on the protest and our decision of July 12. Based upon the facts of record, which have not been shown to have been erroneous, we found no basis upon which the protest could be sustained. In view thereof, we consider that Magnasync has failed to demonstrate any error of law or information not previously considered. See section 20.9 of our Bid Protest Procedures, 4 C.F.R. part 20 (1977). Our decision of July 12 is, therefore, affirmed. See Reaction Instruments, Inc., B-189168, March 6, 1978, 78-1 CPD 170.

  
Deputy Comptroller General  
of the United States